

SIVE | PAGET | RIESEL

MARK A. CHERTOK
 DIRECT DIAL: 646.378.7228
 MCHERTOK@SPRLAW.COM

November 26, 2024

VIA ECF

Judge Lewis J. Liman
 United States District Court
 Southern District of New York
 500 Pearl Street
 New York, New York 10007

Re: *Chan v. U.S. Dep't of Transp.*, No. 23 Civ. 10365 (S.D.N.Y.) (LJL); *New Yorkers Against Congestion Pricing Tax v. U.S. Dep't of Transp.*, No. 24 Civ. 367 (S.D.N.Y.) (LJL); *Mulgrew v. U.S. Dep't of Transp.*, No. 24 Civ. 1644 (S.D.N.Y.) (LJL); *Trucking Association of New York v. Metropolitan Transportation Authority*, No. 24 Civ. 04111 (S.D.N.Y.) (LJL)

Dear Judge Liman,

We write on behalf of all parties in the above-captioned actions to set forth our common understanding of the briefing schedules on upcoming motions in accordance with the Court's directive at the conference held on November 21, 2024 and in light of subsequent events. As the Court is aware from the Federal Defendants' filing of notice of lodging of the supplemental administrative record (ECF Nos. 129 (*Chan*), 117 (*Mulgrew*), 117 (*New Yorkers*)), the Federal Highway Administration has approved the second reevaluation for the Central Business District Tolling Program, and it was published on the MTA website on November 22.¹ With this in mind, the parties understand that pursuant to the Court's direction, the following schedules apply.

Schedule for Remaining Motions to Dismiss and Preliminary Injunction in Constitutional Claims

	Proposed Deadline
Plaintiffs' Oppositions to Defendants' Motions to Dismiss and Plaintiffs' Motions to Supplement the Record (if any)	11/25/2024
Plaintiffs' Motions for a Preliminary Injunction (if any)	11/29/2024

¹ MTA, Re-Evaluation 2 and VPPP Agreement, <https://new.mta.info/project/CBDTP/reevaluation2-and-vppp-agreement>.

Judge Lewis J. Liman
 November 26, 2024
 Page 2 of 3

Defendants' Replies in Further Support of Motions to Dismiss and Oppositions to Motions for a Preliminary Injunction	12/2/2024
Plaintiffs' Replies in Further Support of Motions for a Preliminary Injunction	12/6/2024

With respect to the claims raised under the National Environmental Policy Act (“NEPA”), the Court’s direction that the first briefs should be filed within 7 days of the publication of the second reevaluation would result in a briefing schedule completed on Saturday, December 14, 2024. Counsel for the *Chan* and *Mulgrew* plaintiffs requested an extension of time to file their motions for summary judgment and a preliminary injunction, if any, to accommodate the Thanksgiving holiday. Although the following schedule deviates from that directed by the Court, the Defendants do not object to the following schedule, assuming it is acceptable to the Court. The below schedule includes claims raised under the State Administrative Procedure Act (“SAPA”).

Schedule for Cross Motions for Summary Judgment and Preliminary Injunction in Claims Brought Under NEPA and SAPA

	Proposed Deadline
Plaintiffs’ Motions for Summary Judgment and for a Preliminary Injunction (if any)	12/2/2024
Defendants’ Oppositions and Cross Motions for Summary Judgment and Oppositions to Motions for a Preliminary Injunction	12/9/2024
Plaintiffs’ Oppositions to Cross Motions and Replies in Further Support of Motions for Summary Judgment and for a Preliminary Injunction	12/12/2024
Defendants’ Replies in Further Support of Cross Motions for Summary Judgment	12/17/2024

Under the above schedules, we contemplate that the hearing currently scheduled for December 20, 2024 would be maintained, subject to the parties’ confirmation by no later than November 27.

We thank the Court for its consideration of this schedule and for its attention to this matter.

Respectfully submitted,

/s/ Mark A. Chertok
 Mark A. Chertok
 Elizabeth Knauer
 SIVE, PAGET & RIESEL, P.C.
 560 Lexington Ave., 15th Floor

Judge Lewis J. Liman
November 26, 2024
Page 3 of 3

New York, NY 10022
(646) 378-7228 / (646) 378-7272
mchertok@sprlaw.com
eknauer@sprlaw.com

/s/ Roberta A. Kaplan
Roberta A. Kaplan
KAPLAN MARTIN LLP
156 West 56th Street | Suite 207
New York, NY 10019
(212) 316-9500
rkaplan@kaplanmartin.com